

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

DONNA CURLING, *et al.*

Plaintiffs,

v.

BRAD RAFFENSPERGER, *et al.*,

Defendants.

Civil Action File

No. 1:17-cv-2989-AT

**STATE DEFENDANTS' EMERGENCY MOTION TO EXCLUDE
THE SUPPLEMENTAL REPORTS OF DRS. BUELL AND STARK**

Pursuant to the Court's Order extending discovery, [Doc. 1238 at 1, n. 2], State Defendants filed a Notice of Objection to the supplemental reports of Drs. Buell and Stark on January 25, 2022. [Doc. 1278]. During the January 27, 2022 discovery conference, this Court directed counsel for the Coalition Plaintiffs to confer with counsel for the State Defendants as to whether resolution of this issue could be had by agreement and, if not, to confirm the manner in which the parties would proceed. Jan. 27, 2022 Hr'g Tr. at 80:4–19. Counsel for the State has heard no further on the issue, but Coalition Plaintiffs have since responded to State Defendants' Objection. [Doc. 1297]. In like manner, State Defendants have now replied in support of their objection. [Doc. 1308].

State Defendants move this Court, pursuant to its inherent authority, Rules 16, 26, and 37 of the Federal Rules of Civil Procedure, and Federal Rule of Evidence 702, to exclude the “supplemental” reports of Drs. Stark and Buell for the reasons stated in their briefing. In light of the impending close of discovery in this case, and because the parties have now fully briefed the issue, State Defendants further request this Court, pursuant to its inherent authority, to rule upon the briefing now before it and incorporate such briefing by reference herein. [Docs. 1278, 1297, 1308].

In like manner, good cause exists to treat this motion as an Emergency Motion under Local Rule 7.2. The current discovery schedule closes on February 15, 2022, with the exception of a small number of outstanding depositions of party-witnesses, and a ruling by this Court may eliminate the need for depositions of Drs. Buell and Stark. Moreover, no party will be prejudiced by treating this motion as an emergency motion. This Court permitted Coalition Plaintiffs the opportunity to confer on the process for handling the issue but they declined and instead responded to the State’s objection. Consequently, the matter is now fully briefed and a ruling of this Court on the existing briefing will avoid overwhelming the Court with superfluous argument.

Respectfully submitted, this 8th day of February 2022.

/s/ Carey A. Miller

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CERTIFICATE OF COMPLIANCE

Pursuant to LR 7.1(D), I hereby certify that the foregoing document has been prepared in accordance with the font type and margin requirements of LR 5.1, using font type of Century Schoolbook and a point size of 13.

This 8th day of February, 2022.

/s/ Carey A. Miller
Carey A. Miller